

Remarks

Reconsideration and allowance of this application are respectfully requested. Previously presented claims 1-5 and 7-12 remain pending in the application. Claims 1, 4, and 7 are independent. The rejections are respectfully submitted to be obviated in view of the remarks presented herein.

35 U.S.C. § 103(a) - Chmielewski

Claims 1, 2, and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,197,938 to Chmielewski. The Office Action acknowledges that "Chmielewski does not disclose the angular velocity of the tool roller with respect to the drive wheels" (Office Action page 3). The Office Action concludes, however, that

the size correlation between the drive wheels and the tool rollers, as well as the distinct motors 106, 123 for the tool roller and the drive wheels is found to suggest to one of ordinary skill in the art at the time of the invention that the tool roller 94 is capable of being driven at an angular speed greater than the drive wheels 30, 34, 48, 52, such as a 2:3 ration [*sic*, "ratio"], *for the purpose of maintaining synchronization of the drive wheels with the tool rollers* (column 6, lines 13-14).
(Emphasis added)

The rejection of claims 1, 2, and 7 under § 103(a) based on Chmielewski is respectfully traversed. For at least the following reasons, the disclosure of Chmielewski would not have rendered obvious Applicants' claimed invention.

First, as even the examiner acknowledges, the disclosure of Chmielewski fails to meet each feature of Applicants' claimed invention. By way of review, Applicants' previously presented claim 1 reads as follows:

A bag making device for cross base bags in which tube sections for the bags are processed, comprising a plurality of working stations that perform different working steps on the tube sections, at least one of the working stations being equipped with a tool that is mounted on a tool roller and that passes through its working position during each rotation of the tool roller at least one conveyor system that conveys the tube sections through the working stations, the conveyor system including conveyor belts that are driven by drive wheels having a larger diameter than the tool roller, and a drive system that drives the drive wheels and the tool roller such that one tube section passes through at least one working station each time the tool roller completes a rotation and *such that the drive wheels have less angular speed than the tool roller.*

An object of the device defined by claim 1 is to provide the drive wheels 4 and the tool rollers 6 with *different* angular velocity in order to define the positioning of the bags in the work stations (see specification page 3, lines 3-5).

Chmielewski's "Waste Remover for Die Cut Blanks" is structurally and functionally different from Applicants' claimed device. Chmielewski discloses an apparatus for removing external and internal waste from previously die-cut blanks (column 1, lines 7-10). The die-cut blanks are transported to an external waste removal station 54, 58, 62, 66, 70, and 74 by a conveyer belt 24 powered by a motor 106 (column 3, lines 59-63, and column 4, lines 9-51). The blanks 22 are transported by rollers 80 and 84 to the

internal waste removal station 90, 91, 92, 94 and 96 (column 4, lines 52-62). To remove the internal waste 97 from the blanks 22 a wheel is provided which imparts vibrational motion to the blanks. The internal waste is loosened by this vibrational motion and can be removed by the roller 96 which is provided with brushes 94 (column 5, lines 7-54). The waste removed blanks 22 are transported by rollers 100 and 104 out of the apparatus (column 5, lines 61-62).

Because of the aforementioned differences, there is simply no teaching in Chmielewski that would have led one to modify the reference in a way that would result in the embodiment of the invention defined by Applicants' claim 1. Even though the examiner has admitted that Chmielewski does not disclose the claimed feature of the different angular velocity between the drive wheels and the tool roller, the examiner asserts that the missing feature would be "suggested" by Chmielewski's disclosure at column 6, lines 13-14. In fact, however, Chmielewski's disclosure at the aforementioned location teaches quite the opposite: "All of the above shafts are caused to rotate in *synchronism*" (Chmielewski column 6, lines 13-14). The above-quoted disclosure from Chmielewski would lead a person skilled in the art to an apparatus in which all of the rollers rotate with the same angular velocity. That is not Applicants' claimed invention.

Accordingly, the disclosure of Chmielewski would not have rendered obvious the invention defined by claim 1. Claim 2 is allowable because it depends from claim 1, and for other reasons.

Previously presented claim 7 is similarly allowable. Claim 7 reads as follows:

A bag making device for processing a tube section of a cross base bag, comprising a station that performs a processing step on the tube section, the station having a tool that is mounted on a rotating tool roller such that the tool passes through a processing position during each rotation of the tool roller, a conveyor system that conveys the tube section through the station, the conveyor system including a conveyor belt that is driven by a drive wheel having a larger diameter than a diameter of the tool roller, and a drive system that drives the drive wheel and the tool roller such that the tube section passes through the station each time the tool roller completes a rotation and *such that a ratio of an angular speed of the drive wheel to an angular speed of the tool roller is 2:3.*

As even the examiner acknowledges, Chmielewski fails to meet each feature of Applicants' claimed device. One feature of the embodiment of the invention defined by claim 7 is that "a ratio of an angular speed of the drive wheel to an angular speed of the tool roller is 2:3." See instant specification page 3/7, where Applicants disclose (as amended) an advantage associated with the claimed feature:

What proves to be particularly advantageous is a configuration in which the ratio of the angular speed of the drive wheels to the angular speed of the processing rollers is 2:3. Due to this ratio of the angular speed of 2:3, the speed droop of the conveyor belt also reduces by the factor 2:3 as compared to when the drive wheels have the same angular speed as the processing rollers.

Furthermore, there is simply no teaching in Chmielewski that would have led one to modify the reference in a way that would result in the embodiment of the invention defined by Applicants' claim 7. Accordingly, the disclosure of Chmielewski would not have rendered obvious the invention defined by claim 7.

35 U.S.C. § 103(a) - Eaves

Claims 1, 2, 4, 5, 7, and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,574,566 to Eaves et al. (hereinafter "Eaves"). As with Chmielewski, the Office Action acknowledges that "Eaves does not disclose the angular velocity of the tool roller with respect to the drive wheels" (Office Action page 3). Then, in reaching the conclusion of obviousness, the Office Action asserts that:

the size correlation between the drive wheels and the tool rollers, as well as the distinct motors 106, 123 for the tool roller and the drive wheels is found to suggest to one of ordinary skill in the art at the time of the invention that the tool roller are capable of being driven at an angular speed greater than the drive wheels, such as a 2:3 ration [sic, "ratio"], *for the purpose of maintaining proper orientation of the conveyed product with each respective station* (column 5, lines 13-38).
(Emphasis added)

The rejection of claims 1, 2, 4, 5, 7, and 8 under § 103(a) based on Eaves is also respectfully traversed. For at least the following reasons, the disclosure of Eaves would not have rendered obvious Applicants' claimed invention.

First, contrary to the above-quoted excerpt from the Office Action, Eaves does not even disclose the asserted "distinct motors 106, 123 for the tool roller and the drive wheels."

Second, as even the examiner acknowledges, the disclosure of Eaves fails to meet each feature of Applicants' claimed invention. Eaves' "Wrapping Machine and Method" is structurally and functionally different from Applicants' claimed invention. Eaves discloses a wrapping machine in which separate drives and operating temperatures are controlled by a microprocessor based control system ("MBS") (column 1, lines 6-11). The machine has a conveyor belt 21 which transports products 14 - with equidistant product pushers 23 - into a former 11 which covers the product with a packaging film tube 16 formed by the former 11 (column 8, lines 11-22). Then the film tube is closed (heat sealed) by finwheel drives or band sealers 68 (column 8, lines 26-27). The sealed film tube 16 containing the spaced apart products 14 is separated by cut/seal heads 17 and 18 (column 8, lines 38-47). The wrapped product is removed by a second conveyor belt 32.

Third, because of the aforementioned differences, there is simply no teaching in Eaves that would have led one to modify the reference in a way that would result in the embodiment of the invention defined by Applicants' claim 1. Even though the examiner has admitted that Eaves does not disclose the claimed feature of the different angular velocity between the drive wheels and the tool roller, the examiner asserts that the missing feature would be

"suggested" by Eaves' disclosure at column 5, lines 13-38. In fact, however, Eaves' disclosure at the aforementioned location teaches something quite different. Eaves teaches that "it is possible to change the [film] cut length with a digital input, and the controller adjusts the cut/seal head velocities as necessary to accommodate the change." That is not Applicants' claimed invention.

Accordingly, the disclosure of Eaves would not have rendered obvious the invention defined by claim 1. Claim 2 is allowable because it depends from claim 1, and for other reasons. Claims 7 and 8 are allowable for reasons analogous to those presented above with regard to Chmielewski.

Method claim 4 is also allowable. Claim 4 defines a method that includes the feature of "driving the drive wheels with less angular speed than the tool roller such that one tube section passes through at least one working station each time the tool roller completes a rotation." Since Eaves fails to teach a method that includes the claimed feature, Eaves would not have rendered obvious the invention defined by claims 4 and 5.

35 U.S.C. § 103(a)

Since Chmielewski or Eaves is the primary reference in each of the other rejections under § 103(a) -- claims 3 and 12 as being unpatentable over Eaves in view of U.S. Patent No. 6,722,493 to Matsuoka et al.; claim 9 as being unpatentable over Chmielewski

in view of U.S. Patent No. 5,355,992 to Baig et al.; and claims 10 and 11 as being unpatentable over Chmielewski in view of U.S. Patent No. 5,164,241 to De La Porte et al. -- each of these rejections is also respectfully traversed. The combined disclosures of the cited references would not have rendered obvious Applicants' presently claimed invention because the disclosures of the additional references do not rectify any of the above-described deficiencies of Chmielewski or Eaves.


Furthermore, there is simply no teaching in any of the references that would have led one to select the references and combine them in a way that would produce the invention defined by any of Applicants' presently pending claims.

Therefore, the various combinations of references would not have rendered obvious the various embodiments of the invention defined by any of Applicants' pending claims.

In view of the foregoing, this application is now in condition for allowance. If the examiner believes that another interview might expedite prosecution, the examiner is invited to contact the undersigned.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By:  Reg. No. 34,378
Harvey B. Jacobson, Jr.
Reg. No. 20,851

400 Seventh Street, N. W.
Washington, D.C. 20004
Telephone: (202) 638-6666
Date: October 30, 2008